

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814



January 3, 1991

ALL-COUNTY INFORMATION NOTICE NO. I- 01-91

TO: ALL COUNTY WELFARE DEPARTMENTS
ALL COUNTY PROBATION DEPARTMENTS
ALL COUNTY COUNSELS
ALL COUNTY GAIN COORDINATORS
ALL PUBLIC AND PRIVATE ADOPTION AGENCIES
ALL SDSS ADOPTION DISTRICT OFFICES

SUBJECT: 1990 CHAPTERED LEGISLATION RELATED TO THE OFFICE OF
CHILD ABUSE PREVENTION, THE ADOPTIONS PROGRAM, THE
CHILD WELFARE SERVICES PROGRAM AND THE GREATER AVENUES
FOR INDEPENDENCE (GAIN) PROGRAM

This letter summarizes legislation chaptered during 1990 which affect the Office of Child Abuse Prevention, the Adoptions Program, the Child Welfare Services Program and the GAIN Program. Unless otherwise noted, the bills listed become effective on January 1, 1991.

These summaries are for general informational purposes only. Additional All-County Letters (ACLs) or All-County Information Notices (ACINs) have been or will be issued for some of the bills to provide more detailed descriptions of specific programmatic issues and necessary implementation activities. For ease of identification, bills have been listed under the specific program which they impact.

ADOPTIONS PROGRAM

AB 548 (Moore), Chapter 1581, Statutes of 1990

This bill establishes an adoptive placement preference order based on a child's racial background or ethnic identification. It requires that priority be given to placement of the child with a relative unless a relative is unavailable or the placement is detrimental to the child. If an adoptive placement cannot be made pursuant to the order established by this statute within 90 days from the time a child is relinquished for adoption or

declared free from parental custody or control, a family of a different racial or ethnic background may be considered where there is evidence the family is sensitive to the child's race, ethnicity and culture. These rules could be waived when a determination of good cause not to follow the placement preference order has been made.

Agencies will also be required to maintain placement records showing that a diligent search for an appropriate family was conducted. These records may be reviewed by the State Department of Social Services (SDSS).

This legislation requires minor changes to existing regulations. For a description of the foster placement preference order also established by AB 548, please refer to the chaptered legislation summarized under the Child Welfare Services Program section of this ACIN.

AB 2617 (Felando), Chapter 1570, Statutes of 1990

This bill makes a number of changes to various statutes regarding criminal record clearances. Two amendments to Health and Safety Code Section 1522 are relevant to the Adoptions Program. The first (subdivision (d)) allows the foster home licensing agency to receive the full criminal record; that is, the record of all arrests and convictions rather than only the record of convictions of applicants for a foster home license. The second (subdivision (h)) allows the full criminal record obtained by the foster home licensing agency to be used also by the Department or a licensed adoption agency for purposes of adoption. This means that foster parents licensed after January 1, 1991 generally will not require a separate criminal records clearance for adoptions.

Regulatory language will be developed to implement this legislation.

AB 3373 (Leslie), Chapter 955, Statutes of 1990

The provisions of this bill are similar to the adoption provisions of AB 2617. Because AB 2617 was signed after AB 3373, this bill will not take effect as it was "chaptered out".

AB 3532 (Woodruff), Chapter 1363, Statutes of 1990

This bill reorganizes and recodifies all of the adoption statutes by specific adoption program.

Revisions will be made to relevant existing regulatory sections to reference correct statutes.

AB 3805 (Bronzan), Chapter 1636, Statutes of 1990

This legislation lowers the eligible age for admission into the Maternity Home Care Program from under 21 to under 18 years of age. It requires the SDSS to reimburse licensed maternity homes utilizing the same rate setting methodology as is used to determine group home rates under the Aid to Families with Dependent Children-Foster Care (AFDC-FC) Program.

The bill requires providers to perform a level of care assessment, using the Level of Care Assessment Instrument developed pursuant to Welfare and Institutions Code (WIC) Section 11467, to determine the appropriateness of the applicant's placement. The legislation also amends existing law to require provider agencies to request but not require financial contribution from the minor's parent(s) or guardian(s) when it is determined that the parents' income exceeds 200% of the federal Poverty Index, adjusted for family size. Further, the bill subjects maternity homes to the same performance standards and outcome measures developed for determining the effectiveness of group home placements under the AFDC-FC Program.

There will be revisions to already existing sections of the Maternity Home Care Program Regulations and development of a sliding fee scale for requesting parental financial contributions.

AB 4145 (Bates), Chapter 864, Statutes of 1990

This legislation restores a provision of the Independent Adoption Fee Bill (Chapter 85, Statutes of 1989) which was inadvertently chaptered out by the Independent Adoption Preplacement Program Act (Chapter 1142, Statutes of 1989). It would have allowed a birth parent's consent to an independent adoption to be taken in court if the parent was not interviewed within 45 days of the filing of the adoption petition unless the agency investigating the adoption had good cause for having failed to interview the parent.

However, the provisions contained in AB 4145 were inadvertently "chaptered out" by a subsequently enacted bill for a second time. We will attempt to restore the statutory language during the upcoming legislative session.

AB 4288 (Hill), Chapter 1492, Statutes of 1990

This bill adds provisions to Penal Code Section 273 to make it a misdemeanor for any parent to obtain maternity-connected and other expenses with the intent to receive those financial benefits where there is no intent to complete an adoption or consent to the adoption. The bill also makes it a misdemeanor

for any parent to obtain such financial benefits from two or more prospective adopting families if either parent knowingly fails to disclose to those persons that there are other prospective adopting families interested in adopting the child. The amendments also allow a second offense to be either a misdemeanor (as is a first offense) or a felony.

This legislation does not require new Departmental regulations.

SB 2188 (Royce), Chapter 130, Statutes of 1990

This bill specifies that Chapter 944, Statutes of 1989, which gave preference to foster parents adopting their foster children when certain conditions are met, does not apply to children adjudged dependents of the court.

Existing regulations have been revised to reflect this change.

CHILD WELFARE SERVICES PROGRAM
GAIN PROGRAM (SB 2295)

ACR 124 (Harris), Resolution Chapter 66, Statutes of 1990

The Family Welfare Research Group (FWRG) at the University of California has initiated a project called "Neighborhood-based Family Centered Systems" to design a more cost-effective human services system model. This resolution directs the Assembly and Senate Offices of Research to cooperate with the FWRG in conducting the activities required to develop a model system of health, education and social services. The resolution also requests the FWRG to share its findings, conclusions and recommendations with the Legislature during the 1991-92 Regular Session.

This resolution does not require new Departmental regulations.

AB 548 (Moore), Chapter 1581, Statutes of 1990

This legislation repeals existing Civil Code Section 275 and adds new Sections 275 through 275.4 which establish priorities for foster care placements. If possible, placement is to be made in the home of a relative; otherwise, a foster parent with the same racial or ethnic identification as the child should be sought. The third priority is placement with a family sensitive to the child's race, ethnicity and culture. These priorities would not be used when their application is not in the child's best interest. The bill also permits any minor 10 years or older to express a placement preference in court.

An ACL is being prepared to provide additional information regarding AB 548. In addition, Manual of Policies and Procedures (MPP) Division 30 regulations will be updated to reflect the bill language.

Since AB 548 impacts adoptions and child welfare services, it is discussed under both programs in this letter. For a description of the adoptions provisions of AB 548, please refer to the chaptered legislation summarized under the Adoptions Program section of this ACIN.

AB 1528 (Farr), Chapter 182, Statutes of 1990

AB 1528 brings state law into conformity with federal law regarding the appointment of surrogate parents to assist in making educational decisions for seriously emotionally disturbed (SED) children. The bill prohibits an employee of a public agency involved in the child's education or care (such as a social worker or probation officer) from acting as a surrogate parent. In addition, a surrogate parent shall not be appointed for a child unless the juvenile court specifically limits the right of the natural parent or guardian to make educational decisions for the child.

The Department is working with the State Department of Education to implement AB 1528. An ACL is being prepared to provide additional information regarding the above and other provisions of the bill.

AB 2193 (Tucker), Chapter 566, Statutes of 1990

This legislation amends the procedures in WIC Sections 369 and 739 for obtaining immediate emergency medical, surgical, dental or other remedial care for a minor under court jurisdiction as specified when parental consent cannot be obtained. Prior to AB 2193, the court or the probation officer, upon the written recommendation of medical personnel, could authorize such care. AB 2193 simplifies these procedures by specifying that emergency care may be provided without court order and upon authorization of the probation officer. The probation officer is required to make reasonable efforts to obtain the consent of, or to notify, the minor's parent or guardian.

This legislation does not require new Departmental regulations.

AB 3010 (Speier), Chapter 1688, Statutes of 1990

This bill establishes the Alcohol and Drug Affected Mothers and Infants Act of 1990. It creates the Office of Perinatal Substance Abuse within the State Department of Alcohol and Drug Programs. Duties of the Office include coordinating pilot projects and providing technical assistance. Additionally, the Office is authorized to review other state agencies' proposals regarding the funding of perinatal substance abuse programs. The Office may also develop proposals for other state agencies. AB 3010 contains additional provisions for the state supervision of perinatal substance abuse programs.

AB 3010 does not require new Departmental regulations. This is an urgency measure with an effective date of September 30, 1990.

AB 3282 (Bates), Chapter 1225, Statutes of 1990

This legislation repeals the statutory authority for California's Emergency Assistance (EA) Program which consisted of an Unemployed Parent (UP) and an Abused, Neglected, or Exploited Children (ANEC) component. The bill also appropriates any unexpended amount in the Restitution Fund for child welfare services in Fiscal Year 1990-91. (The Restitution Fund, described in Government Code Sections 13959 through 13969.2, assists victims to obtain restitution for losses suffered as a direct result of criminal acts.)

ACL 90-92 provides additional information regarding the repeal of the EA Program. An emergency regulations package has also been issued repealing the Departmental EA regulations. AB 3282 is an urgency measure with an effective date of September 24, 1990.

AB 3552 (Roos), Chapter 1394, Statutes of 1990

This legislation requires the State Department of Education to establish a two-year pilot project in Los Angeles County to provide respite care services for at least 100 families of special needs children. The eligible population includes any child 12 years old or younger who is not a regional center client, who is not receiving respite care services through any other state-funded program or agency, and who has one of the disabilities specified in the bill. Each participating family may receive respite care services for all children in the family for a maximum of 16 hours per child per month.

This bill does not directly impact child welfare services, but is included here as it may be of interest.

AB 3949 (Lempert), Chapter 1666, Statutes of 1990

AB 3949 directs the SDSS to select and award grants to private nonprofit or public entities for the development of a training program for child protective workers, law enforcement officers and program administrators in creating and maintaining formal memoranda of understanding regarding coordinated efforts in child abuse investigations.

The Governor vetoed the \$64,000 appropriation for AB 3949, indicating that funding for these grants should instead be considered during the budget process. Unless funding is made available, no further action will be taken on this bill.

AB 4013 (Burton), Chapter 1011, Statutes of 1990

This bill allows a ward or a dependent child 16 years or older who participates in the Independent Living Program (ILP) to

retain cash savings and interest accumulated pursuant to his or her ILP case plan. The cash savings are to be used for purposes directly related to emancipation. In addition, AB 4013 provides specific deposit and withdrawal procedures.

An ACL is being issued discussing the bill's impact on foster care and child welfare services. Departmental regulations will also be developed to implement AB 4013.

AB 4122 (Frazee), Chapter 320, Statutes of 1990

When a minor is taken into custody, WIC Section 308 requires the parent, guardian or a responsible relative to be notified of the minor's whereabouts, unless the court orders otherwise. The court will issue such an order only if notification would endanger the child or if the parent or guardian is likely to flee with the child. AB 4122 expands this provision to allow issuance of a court order if notification would endanger the child's foster family. WIC Section 308 also authorizes the child's whereabouts to be withheld without a court order if an order cannot be obtained before the detention hearing and the peace officer or social worker has a reasonable belief that disclosure would endanger the child or that the child's custody would be disturbed. AB 4122 expands this provision to allow the child's whereabouts to be withheld without court order if the foster parents would be endangered.

MPP Division 30 regulations will be updated to reflect these law changes.

SCR 81 (Morgan), Resolution Chapter 130, Statutes of 1990

This resolution requests the Governor to appoint a cabinet-level Secretary of Child Development and Services. The secretary would work with the State Department of Education and other providers of children's services to facilitate cooperation and communication, to determine the effectiveness of children's programs, to increase the effective use of state funds and to examine the need for additional services.

This resolution does not require new Departmental regulations.

SB 615 (C. Green), Chapter 1370, Statutes of 1990

This legislation places into state statutes the provisions of Public Law (P.L.) 101-239. SB 615 adds WIC Sections 16000 and 16010 which require that the case plan for each child placed in foster care include, to the extent available and accessible, specified health and education records. The child's health and

education records must also be reviewed, updated and supplied to the foster parent or foster care provider at the time of each placement.

Please see ACIN I-79-90 for a discussion of the P.L. 101-239 provisions. MPP Division 30 regulations will be updated to reflect the SB 615 language.

SB 2039 (Bergeson), Chapter 1139, Statutes of 1990

SB 2039 changes the term "day treatment facility" to "therapeutic day services facility" and requires the SDSS to adopt regulations, including program standards, for such facilities by July 1, 1992. To assist in this task, the Department is to establish an advisory committee consisting of representatives of the County Welfare Directors Association, the California Association of Services for Children, the California Children's Lobby and others as needed. The bill requires the Department to submit a report to the Legislature by October 1, 1991 on various issues related to these facilities. SB 2039 also includes therapeutic day services within the scope of child welfare services.

This is an urgency measure with an effective date of September 21, 1990.

SB 2232 (Presley), Chapter 1530, Statutes of 1990

This bill makes a number of changes relating to juvenile court law. SB 2232 adds language to the Probate Code specifying that Sections 1500 through 1516 do not apply to a guardianship established pursuant to a permanent plan for a dependent child. It also adds a "certified family home whose license is pending" to the placement options available when a minor is not returned home at the detention hearing. Other changes concern the service of court findings and orders, the delegation of the right to access criminal history information, the definition of relatives for placement purposes, etc.

An ACIN is being issued describing all the relevant provisions of SB 2232. In addition, MPP Division 30 regulations will be updated to reflect these law changes.

SB 2233 (Presley), Chapter 1049, Statutes of 1990

Last year SB 370 (Chapter 1294, Statutes of 1989) addressed a variety of significant issues related to AFDC-FC funding, the placement of children in out-of-home care and the services provided to these children. SB 370 required the SDSS to develop a Level of Care Assessment Instrument (LCAI) to match the assessed needs of a dependent or ward and his or her family with

the services provided by placement facilities. SB 2233 directs the Department to adopt regulations by July 1, 1991 requiring the use of the LCAI in determining the appropriate placement of children. The Department must also adopt regulations regarding the LCAI which ensure that group home programs receive AFDC-FC rates consistent with the needs of the children they accept for placement.

The above summary only addresses the bill provisions which affect the LCAI; it does not describe the amendments concerning AFDC-FC rate setting procedures, including linkage of rates to performance standards and outcome measures for group homes. The Family and Children's Services Policy Bureau is currently in the process of testing a draft LCAI and regulations will be developed in consultation with the counties after the form has been finalized for statewide usage.

SB 2295 (Morgan), Chapter 1141, Statutes of 1990

This bill deals with the use of license-exempt child care services in the GAIN Program. SB 2295 allows a county to deny payment for license-exempt child care services if the provider has been convicted of child abuse or of a violent felony as defined in Penal Code Section 667.5 (c). The bill requires also that the personal statement from the care provider as to his or her health, education, experience or other qualification, criminal record, and name and ages of other persons in the home or providing care as required by WIC Section 11320.3 be made under penalty of perjury. If a county has determined that payment should be denied and is required to make a report pursuant to Penal Code Section 11166, the county shall immediately refer the case to the child protective services agency for immediate investigation. The county may temporarily defer the recipient's participation in the GAIN Program pending disposition of the case if the recipient does not change child care providers.

The GAIN and Employment Services Policy Bureau is developing an emergency regulations package to implement the bill. This legislation does not require new MPP Division 30 regulations.

SB 2389 (Russell), Chapter 917, Statutes of 1990

SB 2389 adds Health and Safety Code Section 11868.5 which requires the State Department of Alcohol and Drug Programs, in consultation with the State Department of Health Services, to distribute a brochure on the care and treatment of infants under the age of six months who have been exposed to drugs. The brochure may be distributed through a number of agencies and organizations, including child protective services.

This legislation does not require new Departmental regulations.

SB 2907 (Calderon), Chapter 1378, Statutes of 1990

This legislation adds WIC Section 16501.6 requiring the SDSS to conduct a study to examine the most efficient methods of collecting and maintaining specific health and educational data for each child in foster care. By February 15, 1992, the Department shall report to the Legislature on the results of the study. The report is to include an assessment of either incorporating this data in the Child Welfare Services Case Management System or implementing an alternative system.

This legislation does not require new Departmental regulations.

OFFICE OF CHILD ABUSE PREVENTION

AB 1696 (Bronzan), Chapter 1117, Statutes of 1990

AB 558 (Chapter 105, Statutes of 1988) established a two-year family preservation pilot project in three counties. This legislation amends WIC Section 16500.5 to make the AB 558 family preservation provisions a permanent, rather than a pilot, program. Each current AB 558 county may continue participation if they demonstrate program success. AB 1696 adds new WIC Section 16500.55 allowing the program, with the approval of the SDSS and the Department of Finance, to be expanded to 12 additional counties. Inclusion of wards (601 and 602 minors) in the program is subject to SDSS approval. The bill also requires various reports to the Legislature.

On October 18, 1990, the Department issued a letter to counties requesting them to submit a plan to the Department by December 1, 1990 if they are interested in being selected as one of the expansion counties. This is an urgency measure with an effective date of September 21, 1990.

AB 2939 (Campbell), Chapter 1463, Statutes of 1990

This legislation contains the same amendments to WIC 16500.5 as are in AB 1696 and AB 3773 making the AB 558 provisions part of a permanent program. AB 2939 also adds Section 16500.65 to the WIC allowing Contra Costa County to implement a family preservation program that may include wards as well as dependents. The County is required to submit (to the SDSS and to the Legislature) a preliminary report upon the conclusion of the demonstration project and a final report six months after the conclusion of the project.

The Department has requested foster care data from Contra Costa County in order to complete fiscal projections for the funds

which will be advanced for the family preservation program. This is an urgency measure with an effective date of September 30, 1990.

AB 3521 (Bentley), Chapter 931, Statutes of 1990

The Child Abuse and Neglect Reporting Act requires certain categories of persons, including child care custodians, to report known or suspected instances of child abuse. AB 3521 expands the definition of child care custodian in Penal Code Section 11166.5 to include administrators and employees of public or private youth centers, youth recreation programs, and youth organizations who have been trained in the duties imposed by the Reporting Act. Members of the support or maintenance staff who do not work with, observe or have knowledge of children as part of their official duties are not included as mandated reporters.

This legislation does not require new Departmental regulations.

AB 3773 (Hannigan), Chapter 1120, Statutes of 1990

This legislation contains the same amendments to WIC 16500.5 as are in AB 1696 and AB 2939 making the AB 558 family preservation provisions part of a permanent program. AB 3773 also adds Section 16500.51 to the WIC allowing Solano and Alameda Counties (two of the three AB 558 counties) to expand their programs to include wards as well as dependents.

The Department is modifying the memoranda of understanding with the existing family preservation program counties. This is an urgency measure with an effective date of September 21, 1990.

SB 2423 (Royce), Chapter 650, Statutes of 1990

SB 2423 amends Penal Code Section 11166.2 of the Child Abuse and Neglect Reporting Act. Section 11166.2 requires a child protective agency to report to the appropriate licensing agency every known or suspected instance of child abuse (except general neglect) which occurs while a child is in a child day care or community care facility, which involves a child day care licensed staff person, or which occurs while a child is under the supervision of a community care facility licensee or staff person. SB 2423 removes the current exception to this reporting mandate by also requiring general neglect cases to be reported to the licensing agency.

This legislation does not require new Departmental regulations.

SB 2669 (Presley), Chapter 1603, Statutes of 1990

This legislation adds Sections 10900 to 10902 to the Health and Safety Code. The bill requires the Health and Welfare Agency to develop and disseminate a model needs assessment protocol for

pregnant and postpartum substance abusing women. It also requires each county to establish protocols between county health departments, county welfare departments (CWDs) and all hospitals regarding assessing the needs of, and the referral of, a substance exposed infant to the CWD. The bill specifies who will perform the assessment and for what purposes.

The legislation also amends the Child Abuse and Neglect Reporting Act by adding new Penal Code Section 11165.13 and amending Section 11166. These changes clarify when a report should be made for positive toxicology screens on newborn infants and when a report should be made to the CWD and not to law enforcement. Current law requires the reporting to law enforcement and the district attorney of all known or suspected child abuse cases except cases of general neglect. This bill adds an exception for reports based solely on the inability of the parent to provide regular care because of substance abuse.

The Department is establishing an interdepartmental committee to develop and recommend a model protocol to be distributed by July 1, 1991. This legislation does not require new Departmental regulations.

SB 2788 (Russell), Chapter 1330, Statutes of 1990

This bill adds definitions of "substantiated report" and "unsubstantiated report" to Penal Code Section 11165.12 of the Child Abuse and Neglect Reporting Act. SB 2788 also deletes language in Penal Code Section 11170 which requires the Department of Justice to notify parents or legal guardians requesting a background examination of a professional child care provider if a substantiated child abuse report does or does not exist regarding that person. Instead, persons or agencies to whom disclosure of reports is authorized are responsible for obtaining the original investigative report and drawing their own conclusions.

MPP Division 30 regulations will be updated to include the above definitions.

Copies of the above-described chaptered bills may be obtained from the California Legislative Bill Room, State Capitol Building, Room B-32, Sacramento, California 95814.

If you have any questions regarding adoptions-related legislation, please contact Roberta Badal, Adoptions Policy Bureau, at (916) 323-0471. If you have questions regarding bills impacting child welfare services, please contact Ingrid Petty, Family and Children's Services Policy Bureau, at (916) 323-3411. Questions relating to Office of Child Abuse Prevention legislation should be directed to Jackie Barr, Office of Child Abuse Prevention, at (916) 323-2888. If you have any questions regarding SB 2295 (Chapter 1141, Statutes of 1990) related to the GAIN Program, please contact the GAIN and Employment Services Operations Bureau, at (916) 324-6962.

Sincerely,



LOREN D. SUTER
Deputy Director
Adult and Family Services

cc: County Welfare Directors Association